

Application Serial No: 10/578,741  
Response to Office Action of 2/26/09  
Docket No.: 17-045 P/US

### **REMARKS**

Claims 26 and 30 have been amended. Claims 6, 9-11, 21-23, 25 and 31-33 were previously cancelled without prejudice or disclaimer. Claims 1-5, 7, 8, 12-20, 24 and 26-30 are pending in the application. Reconsideration is respectfully requested.

### **Allowed Claims**

The Examiner is thanked for his allowance of claims 1-5, 7,8, 12-20, 24 and 28-30.

### **Claim Objection**

Claim 30 was objected to as including informalities relating to antecedents. Claim 30 has been amended to overcome the informalities noted by the Examiner.

### **Claim Rejections Under 35 USC § 112, Second Paragraph**

Claims 26 and 27 were rejected under 35 USC 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claim 26 has been amended to recite that the tile positioning device includes at least one tile-pressing element mounted between the longitudinal side members, the at least one tile-pressing element being arranged to act upon the upper face

of a tile located between the longitudinal side members, so as to height position the tile relative to the device. Accordingly, claim 26 comports with all requirements of Section 112, second paragraph.

Claim 27 depends from claim 26 and, therefore, comports with all requirements of Section 112, second paragraph.

**Claim Rejections Under 35 USC § 102(b)**

Claims 26 and 27 were rejected under 35 USC 102(b) as being anticipated by GB 2,281,092 to Ryder ("Ryder"). Claims 26 and 27 were rejected under 35 USC 102(b) as being anticipated by GB 2,218,450 to Shafto ("Shafto").

Claim 26, as amended, is directed to a tile positioning device for positioning a tile on a roof hip or ridge joint, the device featuring: two opposing longitudinal spaced apart side members arranged for straddling a roof hip or ridge joint, means for maintaining the longitudinal side members in a substantially parallel configuration, at least one tile-pressing element mounted between the longitudinal side members, the at least one tile-pressing element being arranged to act upon the upper face of a tile located between the longitudinal side members, so as to height position the tile relative to the device, and at least two foot and/or hand holds extending outwardly from the device.

Neither Ryder nor Shafto disclose, teach or suggest a tile positioning device as recited in claim 26. For these reasons, among others, claim 26 is patentable over

Application Serial No: 10/578,741  
Response to Office Action of 2/26/09  
Docket No.: 17-045 P/US

either of the Ryder and Shafto references.

Claim 27 depends from claim 26 and, therefore, is patentable over either of the Ryder and Shafto references.

### **Comment on Statement of Reasons for Allowance**

This is in response to the Examiner's Statement of Reasons for Allowance of Claims 1-5, 7, 8, 12-20, 24 and 28-30 set forth in the Office Action having a mailing date of February 26, 2009.

Applicants' representative has interpreted the Examiner's Statement of Reasons for Allowance as a listing or partial recitation of elements for one or more allowed claims that purportedly distinguish the one or more claims from the prior art. Applicants' representative respectfully submits that this list or partial recitation represents a paraphrase or partial paraphrase of the one or more claims and that the allowed claims themselves define the scope of the invention. Additionally, it is respectfully submitted there may be additional reasons for allowance of the one or more claims. Accordingly, Applicants, through Applicants' representative, do not acquiesce to the Examiner's Statement of Reasons for Allowance.

Application Serial No: 10/578,741  
Response to Office Action of 2/26/09  
Docket No.: 17-045 P/US

**Conclusion**

All claims are believed to be in condition for allowance and prompt issuance of a Notice of Allowance is respectfully requested.

If any fees are determined to be due in connection with filing this Amendment or any other paper filed during prosecution of this application, the Commissioner is authorized to charge any such fees to deposit account no. 20-0090. If any extension of time is required in connection with filing this Amendment or any other paper filed during prosecution of this application, such an extension of time is hereby petitioned for and respectfully requested.

Respectfully submitted,

Date: May 7, 2009

/George L. Pinchak/  
George L. Pinchak  
Registration No. 37,697  
Tarolli, Sundheim, Covell and Tummino  
1300 East Ninth St., Suite 1700  
Cleveland, OH 44114  
Phone: (216) 621-2234  
Facsimile: (216) 621-4072  
E-mail: [gpinchak@tarolli.com](mailto:gpinchak@tarolli.com)